

Wireless has the technical capability to maintain its facilities in emergencies. Upon designation as an ETC, SI Wireless will report annually any expansions and enhancements to its network within its proposed ETC designation area at the same time it submits its reports and annual certification required under the FCC's Rules.²⁴ Therefore, SI Wireless meets the requirement that it provide the supported services using its own facilities.²⁵

C. SI Wireless Will Offer All of the Services and Functionalities Supported by the Federal Universal Service Program

To be designated an ETC, the Communications Act requires carriers to certify that they provide each of the supported services.²⁶ Attached as Exhibit D is a sworn declaration that SI Wireless offers, "or will be able to offer, all of the services designated for support by the Federal Communications Commission."²⁷ SI Wireless will offer upon designation as an ETC, all of the supported services as set forth in the recently modified FCC Rules, throughout the areas in which SI Wireless is requesting designation as an ETC.²⁸ SI Wireless is committed to providing high quality universal service offerings in

²⁴ 47 C.F.R. §§ 54.313, 54.314.

²⁵ 47 U.S.C. § 214(e)(1)(A). *See also* *Mobility Fund Phase I Public Notice* at ¶ 5. *See also* *Federal-State Joint Board on Universal Service, Report and Order*, 12 FCC Rcd 8776, 8870-71 (1997) ("We conclude, therefore, that, if a carrier uses its own facilities to provide at least one of the designated services, and the carrier otherwise meets the definition of 'facilities' adopted above, then the facilities requirement of section 214(e) is satisfied."); *id.* at 8871 ("[S]ection 214(e) does not mandate the use of any particular level of a carrier's own facilities.").

²⁶ *See, e.g.*, 47 U.S.C. § 254(c). *See also* 47 C.F.R. § 54.201(d)(1); *Mobility Fund Phase I Public Notice* at ¶ 5.

²⁷ *Designation of Fort Mojave Telecommunications, Inc., et al., as Eligible Telecommunications Carriers Pursuant to Section 214(e)(6) of the Communications Act*, AAD/USB File No. 98-28, Memorandum Opinion and Order, 13 FCC Rcd 4547, 4552 (para. 11) (1998) ("*Fort Mojave*"). In *Fort Mojave*, the FCC made it clear that it will designate carriers as ETCs, pursuant to Section 214(e)(6) of the Act, upon finding that they "offer or will be able to offer" the supported services throughout the service area.

²⁸ *See* 47 C.F.R. § 54.101(a). As recently modified, the FCC has identified the following services and functionalities as the core services to be offered by an ETC and supported by federal universal service support mechanisms: "Eligible voice telephony services must provide voice grade access to the public switched network or its functional equivalent; minutes of use for local service provided at no additional charge to end users; access to the emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911 systems ...; and toll limitation services to qualifying low-

Tennessee and will ensure that the supported services are available throughout the designated service area to all customers who make a reasonable request for service.

1. Voice-Grade Access to the Public Switched Telephone Network.

SI Wireless offers customers voice grade access to the Public Switched Telephone Network service as required by 47 C.F.R. 54.101(a)(1). "Voice grade access" permits a telecommunications user to transmit voice communications, including signaling the network that the caller wishes to place a call, and to receive voice communications, including receiving a signal that there is an incoming call. SI Wireless will provide its customers with "voice grade access" by enabling such customers to make and receive calls on the public switched telephone network.

2. Minutes of Use for Local Service at No Additional Charge

SI Wireless' service in Tennessee includes local usage that allows customers to originate and terminate calls within a local calling area without incurring toll charges. SI Wireless will continue to offer service plans that include varying amounts of local usage. SI Wireless will comply with any and all minimum local usage requirements the FCC may adopt with respect to universal service offerings. Therefore, SI Wireless satisfies the local usage criterion for ETC designation.

3. Access to Emergency Services

SI Wireless will provide access to emergency services in conformance with the FCC's requirements. All of the phones that SI Wireless will distribute to subscribers will be capable of delivering automatic numbering information ("ANI") and automatic

income consumers as described in subpart E of this part." 47 C.F.R. § 54.101(a) (as modified by the *Lifeline Reform Order*).

location information (“ALI”), and otherwise satisfy applicable enhanced-911 requirements.

4. Toll Limitation

Certain low-income consumers in Tennessee will be eligible to pay reduced monthly fees under the Federal Lifeline program in which SI Wireless will participate. A general summary of SI Wireless' Lifeline offering in Tennessee is attached.²⁹ SI Wireless will offer toll limitation services, which can be in the form of “toll control” or “toll blocking” services to qualifying Lifeline customers.³⁰ Toll blocking allows customers to block the completion of outgoing toll calls. Toll control allows the customer to limit the toll charges a subscriber can incur during a billing period. Upon designation as an ETC, SI Wireless will offer toll limitation services to Lifeline customers, at no charge. Therefore, SI Wireless meets the ETC requirement of offering toll limitation services to Lifeline customers.

D. SI Wireless Will Advertise the Availability of and Charges for Its Universal Service Qualifying Offerings

In accordance with Section 54.201(d)(2) of the Commission's Rules, SI Wireless will advertise the availability of the supported services detailed above, and the corresponding rates and charges, in a manner designed to inform the general public within Tennessee.³¹ This advertising will occur through a combination of media channels, such as television and radio, newspaper, magazine and other print advertisements, outdoor advertising, direct marketing, and the Internet. This advertising

²⁹ See Exhibit E.

³⁰ 47 C.F.R. § 54.101(a). See *Federal-State Joint Board on Universal Service*, CC Docket Nos. 96-45, 96-262, 94-1, 91-213, 95-72, Fourth Order on Reconsideration, Report and Order, 13 FCC Rcd 5318 (1997).

³¹ See 47 C.F.R. § 54.201(d)(2). See also 47 U.S.C. § 214(e)(1)(B); *Mobility Fund Phase I Public Notice* at ¶ 5.

will include advertisements about the availability of Lifeline service and done in a manner reasonably designed to reach those likely to qualify for Lifeline service.

SI Wireless intends to use the brand name "MobileNation" in connection with its service offerings.

E. SI Wireless Will Satisfy Its Additional Obligations as an ETC

In addition to those requirements set forth in Section 54.201 of the Commission's Rules, SI Wireless will satisfy other ETC requirements adopted by the FCC. In particular:

1. Compliance with Service Requirements and Five Year Plan

Section 54.202(a)(1) of the FCC's Rules³² requires an ETC applicant to: (1) certify that it will comply with the service requirements applicable to the support it receives; and (2) submit a five-year plan that describes proposed improvements or upgrades to the applicant's network throughout its proposed service area.³³

a. Compliance with Service Requirements

SI Wireless certifies that it will comply with the service requirements applicable to the support that it receives. It will provide service throughout the proposed designated ETC area using its standard customer equipment and service offerings where available.

b. Five-Year Service Improvement Plan.

SI Wireless submits its proposed five-year service improvement plan ("Plan"), attached hereto as Exhibit F, in accordance with Section 54.202(a)(1)(ii) of the FCC's Rules.³⁴ Because the Plan contains highly confidential information, SI Wireless is

³² 47 C.F.R. § 54.202(a)(1) (as modified by the *Lifeline Reform Order*).

³³ 47 C.F.R. § 54.202(a)(1)(i)-(ii). See also *Mobility Fund Phase I Public Notice* at ¶ 5.

³⁴ 47 C.F.R. § 54.202(a)(1)(ii). SI Wireless' Five-Year Service Improvement Plan reflects all of the capital expenditure and operational expenditure improvements proposed by SI Wireless throughout its entire proposed ETC service area.

submitting it separately in accordance with the Commission's Rules. The Plan describes the projected improvements in the areas in which SI Wireless seeks ETC designation in this Application. The Plan reflects capital expenditures that exceed the level of expenditures SI Wireless would be able to commit in the absence of USF support, including any support received by SI Wireless from the Mobility Fund. Moreover, as set forth in the Plan, SI Wireless will incur expenses in order to upgrade and maintain its existing network in the areas in which the Company seeks designation, both of which are equally appropriate uses of USF support.

SI Wireless' Plan is contingent upon receiving funding through the Mobility Fund. Further, the Plan must be flexible in order to respond to general consumer demand, changes in technology, and other appropriate factors, and thus, the Plan, including the priority of construction of each cell site, is subject to change for these reasons. SI Wireless commits to provide the Commission with annual progress reports consistent with Section 54.213(a)(1) of the FCC's Rules.³⁵

The Plan satisfies the ETC designation requirements and constitutes a good faith estimate of the universal service benefits, including expanded coverage and improved signal and service quality, which citizens of the State of Tennessee will enjoy if the Commission designates SI Wireless as an ETC in the requested areas and SI Wireless is successful in obtaining USF support, including support from the Mobility Fund.

2. Ability to Remain Functional in Emergency Situations.

SI Wireless will be able to remain functional in emergency situations.³⁶ The Company's network is designed to remain functional in emergency situations.

³⁵ 47 C.F.R. § 54.213(a)(1) (as modified by the *Connect America Fund Order*).

³⁶ See 47 C.F.R. § 54.202(a)(2). See also *Mobility Fund Phase I Public Notice* at ¶ 6.

Specifically, SI Wireless (1) will have adequate amounts of back-up power to ensure functionality without an external power source; (2) will be able to reroute traffic between switch and hub; and (3) will be capable of managing traffic spikes resulting from emergency situations.³⁷

SI Wireless' system will be reinforced by the presence of generator backups, capable of running for extended periods in the event of a major electrical outage. These include back-up batteries that provide at least four hours of back-up power and portable generators can be moved to individual cell sites, as needed. Because individual cell sites are spread out, it is highly unlikely that an electrical outage would affect more than two sites simultaneously. In the event of power or other types of failure, the cell sites are equipped with alarms that will alert our technicians. Additionally, the sites are monitored remotely by the Company's 24/7 Network Operations Center (NOC), should there be a total communications failure at the site.

SI Wireless' main switch connectivity to the public switched voice network will be based on a ring topology and is redundant – if the ring is cut, call traffic can be re-routed. SI Wireless uses both microwave and leased lines for added diversity to cell site hubs. Backbone traffic lines are designed with sufficient capacity to manage extraordinary spikes. SI Wireless has multiple agreements with long distance providers to absorb excess calling if needed.

A typical cell site installation consists of an 8' x 10' concrete pad, on which outdoor equipment cabinets or a prefabricated shelter containing the equipment will be placed. Antennas are typically mounted on an adjacent tower, either new or existing, or other suitable structure. Most cell sites consist of two or three cabinets or equipment

³⁷ See 47 C.F.R. § 54.202(a)(2).

racks; one or two of the cabinets for radio communications equipment, and the other for power rectification and battery backup. The radio equipment cabinets are configured and equipped with voice and data equipment necessary to carry the projected busy hour traffic. This equipment can be increased as required to accommodate increases in call traffic.

All cell sites will be remotely monitored by the Company's NOC to ensure continuous operation. Operational measurement data is also routinely collected and reviewed to identify off normal conditions. In the event of a failure, the NOC will take action to restore service, reroute traffic around damaged facilities and/or dispatch appropriate personnel to remedy the trouble. Response time to an outage report is normally less than 60 minutes. In addition, all cell sites will be periodically visited by field operations personnel to conduct preventative maintenance and routine testing of the cell site components.

In accordance with Section 54.313(a)(6) of the FCC's Rules,³⁸ SI Wireless will annually certify that it is able to function in emergency situations. The Company will also fulfill the annual outage reporting requirement described in Section 54.313(a)(2), which requires an ETC applicant to submit detailed information on any outage of at least thirty (30) minutes in duration that potentially affects (1) at least 10 percent of the end users served in a designated area; or (2) a 911 special facility, as defined in Section 4.5(e) of the FCC's Rules.³⁹

As required by the FCC's Rules, the outage report will include information detailing: (1) the date and time of onset of the outage; (2) a brief description of the outage

³⁸ 47 C.F.R. § 54.313(a)(6).

³⁹ *Id.*; 47 C.F.R. § 4.5(e).

and its resolution; (3) the particular services affected; (4) the geographic areas affected by the outage; (5) steps taken by SI Wireless to prevent a similar situation in the future; and (6) the number of customers affected.⁴⁰ Therefore, SI Wireless meets the requirement that it will remain functional in emergency situations.

3. Consumer Protection.

Section 54.202(a)(3) of the FCC's Rules states that an ETC applicant must "demonstrate that it will satisfy applicable consumer protection and service quality standards."⁴¹ A commitment by wireless applicants to comply with the Consumer Code for Wireless Service adopted by CTIA–The Wireless Association[®] ("CTIA Consumer Code") satisfies this requirement.⁴² SI Wireless is committed to abide by the CTIA Consumer Code, as it may be amended from time to time, throughout its service area.

Moreover, if designated as an ETC, SI Wireless will abide by the requirements of Sections 54.313(a)(4) and 54.313(a)(5) of the FCC's rules.⁴³ Specifically, the Company will, on an annual basis, certify its compliance with the CTIA Consumer Code and report the number of customer complaints per thousand handsets. Accordingly, SI Wireless meets the consumer protection requirements.

4. Consumer Eligibility and Enrollment

With respect to its provision of Lifeline service in Tennessee, SI Wireless will have policies and procedures in place to verify eligibility of prospective customers in compliance with the Commission's and FCC's Rules.⁴⁴

a. Subscriber Eligibility Determination and Certification

⁴⁰ 47 C.F.R. § 54.313(a)(6).

⁴¹ 47 C.F.R. § 54.202(a)(3). See *Mobility Fund Phase I Public Notice* at ¶ 6.

⁴² *Id.* The CTIA Consumer Code can be viewed on the Web at <http://files.ctia.org/pdf/ConsumerCode.pdf>.

⁴³ 47 C.F.R. §§ 54.313(a)(4), 54.313(a)(5) (as modified by the *Connect America Fund Order*).

⁴⁴ 47 C.F.R. § 54.409.

Under the Company's policies and procedures, a prospective customer will be required to provide documentation verifying eligibility to participate in a qualifying program or documentation of income based qualification to support his/her application. Further, SI Wireless' forms will comply with the requirements set forth in 47 C.F.R. § 54.410, as recently modified by the FCC in its *Lifeline Reform Order*.⁴⁵

Among other things, the Company's Lifeline Application will require a potential customer to verify, under penalty of perjury, that neither the applicant nor any other person in the applicant's household currently receives Lifeline service, and that the applicant will notify SI Wireless within 30 days if, for any reason, the applicant is no longer eligible for Lifeline service.⁴⁶ SI Wireless commits to only provide Lifeline service to customers that qualify for such service under Section 54.409 of the FCC Rules, as recently modified by the FCC in its *Lifeline/Link Up Reform Order*.⁴⁷

b. Annual Eligibility Recertification

SI Wireless commits to annually re-certify all subscribers in accordance with 47 C.F.R. § 54.410(f) of the FCC Rules, as recently modified by the FCC in its *Lifeline Reform Order*. SI Wireless will provide the results of its annual recertification efforts pursuant to the Commission's Rules. The Company may undertake this re-certification on a rolling basis throughout the year. Furthermore, SI Wireless commits to submit an annual certification confirming the existence of policies and procedures to confirm consumer eligibility and the Company's compliance with such policies and procedures.⁴⁸

c. De-Enrollment

⁴⁵ See 47 C.F.R. § 54.410; *In the Matter of Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-42, Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11, rel. Feb. 6, 2012 (*"Lifeline Reform Order"*).

⁴⁶ See 47 C.F.R. § 54.410(d).

⁴⁷ 47 C.F.R. § 54.409.

⁴⁸ See 47 C.F.R. § 54.416.

Consistent with the requirements in Section 54.405(e) of the FCC Rules, as recently modified by the FCC in its *Lifeline Reform Order*, SI Wireless will terminate Lifeline benefits to any customer that does not demonstrate continued eligibility within 30 days following the date of an impending termination letter.⁴⁹ SI Wireless will provide impending termination letters to: (a) any customer that fails to demonstrate their continued eligibility as part of the Company's annual recertification efforts; (b) any customer the Company believes, on a reasonable basis, no longer qualifies for the service under the eligibility criteria identified in the FCC Rules; or (c) any customer that has no usage for 60 consecutive days.⁵⁰

SI Wireless will also terminate (within five business days) Lifeline benefits to any customer or household the Company has been notified to be receiving Lifeline benefits from more than one carrier.⁵¹

d. Annual Reporting Requirements

SI Wireless commits to comply with the annual reporting requirements identified in Section 54.422 of the FCC Rules, 47 C.F.R. § 54.422, as recently modified by the FCC in its *Lifeline Reform Order*.

IV. DESIGNATING SI WIRELESS AS AN ETC WILL SERVE THE PUBLIC INTEREST

For SI Wireless to be designated as an ETC in a rural service area, the Commission must find that the grant of ETC status to SI Wireless in the rural service area would serve the public interest.⁵² In cases decided by the FCC,⁵³ the question of whether

⁴⁹ See 47 C.F.R. § 54.405(e).

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² See 47 U.S.C. § 214(e)(2). No public interest finding is required where a carrier is seeking ETC designation in a non-rural service area. *Id.*

⁵³ See, e.g., *North Carolina RSA 3 Cellular Tel. Co.*, CC Docket No. 96-45, Order, 21 FCC Rcd 9151

it is in the public interest to designate a wireless carrier in areas served by rural incumbent LECs has been decided in the affirmative.

The 1996 Act and the FCC in its enabling orders provide guidance for determining the public interest.⁵⁴ The overarching principles embodied in the 1996 Act are to “promote competition and reduce regulation[,] . . . secure lower prices and higher quality services[,] . . . and encourage the rapid deployment of new telecommunications technologies.”⁵⁵ In its implementing orders, the FCC has ruled that the pro-competitive and deregulatory directives from Congress required USF support mechanisms to be competitively neutral and portable among eligible carriers.⁵⁶

In conformity with the Act and the FCC’s rules, the FCC has repeatedly found that wireless carriers satisfy the federal requirements for ETC designation, and has cautioned state commissions against imposing artificial barriers to competitive entry by wireless carriers, particularly in rural areas where wireless carriers are best positioned to compete with wireline carriers.⁵⁷

Although the Commission’s rules do not provide specific public interest criteria, the FCC has previously enunciated a framework of five factors for consideration in ETC

(Wireline Comp. Bur. 2006) (“*Carolina West Order*”); *Corr Wireless Communications, LLC*, CC Docket No. 96-45, Order, 21 FCC Rcd 1217 (Wireline Comp. Bur. 2006); *RCC Minnesota, Inc. and RCC Atlantic, Inc.*, CC Docket No. 96-45, Order, 20 FCC Rcd 15833 (Wireline Comp. Bur. 2005); *Virginia Cellular LLC*, CC Docket No. 96-45, Memorandum Opinion and Order, 19 FCC Rcd 1563 (2004) (“*Virginia Cellular Order*”); *NPCR, Inc., d/b/a Nextel Partners*, 19 FCC Rcd 16530 (2004) (“*Nextel Partners Order*”); *Highland Cellular, Inc.*, CC Docket No. 96-45, Memorandum Opinion and Order, 19 FCC Rcd 6422 (2004).

⁵⁴ See, e.g., *Universal Service First Report and Order*, 12 FCC Rcd at 8801 (para. 47); *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Ninth Report and Order and Eighteenth Order on Reconsideration, 14 FCC Rcd 20432, 20480 (para. 90) (1999) (*Universal Service Ninth Report and Order*).

⁵⁵ 1996 Act (preamble).

⁵⁶ *Universal Service First Report and Order*, 12 FCC Rcd at 8801, 8861-62 (para. 152); *Universal Service Ninth Report and Order*, 14 FCC Rcd at 20480 (para. 90).

⁵⁷ See *Federal-State Joint Board on Universal Service*, CC Docket Nos. 96-45, 96-262, Seventh Report and Order, 14 FCC Rcd 8078 (1999).

designations. In determining the public interest, the FCC has indicated that the following should be considered:

- The benefits of increased competitive choice;
- The impact of designation on the federal USF;
- The unique advantages and disadvantages of the competitor's service offering;
- Any commitments made regarding the quality of telephone service; and
- The likelihood that cream-skimming will result from the designation.⁵⁸

SI Wireless sets forth below specific facts demonstrating how its designation will advance the public interest in the service areas requested in this Application.

A. SI Wireless' Designation Will Bring Improved Coverage and Service Quality

Through participation in USF support mechanisms, such as the Mobility Fund and Lifeline program, SI Wireless will operate, maintain, and expand its communications infrastructure in Tennessee to improve signal coverage, enhance wireless call quality, and provide more advanced services to Tennessee consumers. These investments will be above and beyond other investments SI Wireless undertakes with internally generated capital. If it is granted ETC status in the proposed ETC service areas, SI Wireless intends to bring and expand third generation ("3G") wireless services to the area, and eventually 4G services.

SI Wireless states on information and belief that there are areas within its proposed ETC service areas that are underserved by wireless telephone facilities.⁵⁹ As set

⁵⁸ *ETC Criteria Order*, 20 FCC Rcd at 6390-96 (paras. 44-57).

⁵⁹ SI Wireless is using the term "underserved" to mean that wireless service is not provided in the area, or that the wireless signal provided in the area is poor, resulting in poor reception and a significant amount of

forth above, SI Wireless commits to provide service to consumers upon reasonable request, and to use USF support to upgrade and expand its network to provide improved coverage and capacity. The mobility of the Company's wireless service will assist “consumers in rural areas who often must drive significant distances to places of employment, stores, schools, and other critical community locations.”⁶⁰

SI Wireless employs an experienced engineering and technical support team that will monitor service quality and service outages across the Company’s planned network, providing on-call emergency support 24 hours a day, seven days a week. SI Wireless' response time to an outage report will normally be less than one hour.

In areas where signal strength is weak and where no business plan supports construction of new facilities, SI Wireless will use federal USF support to construct facilities to improve signal strength and serve consumers with the same top quality mobile service that urban consumers enjoy today.

B. SI Wireless' Investment of USF Support in Its Proposed ETC Service Area Will Lead to Significant Health and Safety Benefits

People in rural areas depend on mobile phones more and more to provide critical communications needs. Designating SI Wireless as an ETC in the areas requested in this Application will provide additional consumer choice and a potential solution to health

dropped calls.

⁶⁰ *Virginia Cellular Order*, 19 FCC Rcd at 1576 (para. 29).

and safety risks associated with the rural nature of these areas.⁶¹ It is self-evident that every time SI Wireless adds a cell site or increases channel capacity with USF support, such as from the Mobility Fund, the number of completed calls, including important health and safety calls, will increase. Thus, for every cell site that SI Wireless constructs, the reliability and performance of SI Wireless' E911 service will improve.

It is difficult to overstate the important public safety benefit that will be realized should the Commission designate SI Wireless an ETC in its proposed service area, particularly if the Company is successful in obtaining USF support from mechanisms such as the upcoming Mobility Fund Phase I auction. Federal high-cost support would significantly bolster SI Wireless' ability to more quickly expand its coverage throughout portions of Tennessee and build a 3G network that can offer state-of-the-art services.

Wireline service is only available at the end of the provider's wires. By contrast, mobile service can extend important health and safety benefits so that people in need are not required to travel long distances to find a telephone in an emergency or other important health or safety situation.⁶²

SI Wireless' network will be reinforced by the presence of battery and generator backups, capable of running indefinitely in the event of a major electrical outage.

⁶¹ See, e.g., *Corr Wireless Communications, LLC, Petition for Designation as an Eligible Telecommunications Carrier in the State of Alabama*, CC Docket No. 96-45, Order, 21 FCC Rcd 1217, 1226 (2006) ("The mobility of telecommunications assists consumers in rural areas who often must drive significant distances to places of employment, stores, schools, and other locations. The availability of a wireless universal service offering also provides access to emergency services that can mitigate the unique risks of geographic isolation associated with living in rural communities."); *U.S. Cellular Missouri Order* at 12 ("Clearly, expansion of cell phone service would benefit consumers by giving them an additional option for phone service, by allowing them additional mobility, and by affording them increased safety while on the road or otherwise away from the end of a telephone wire."); *Alltel Nebraska Order* at 16-17; *RCC Mississippi Order* at 9 ("[The mobility of telecommunications] is ... invaluable in summoning emergency services in rural areas where public access telephones are few and far between.").

⁶² *Easterbrooke Rural Order* at 61 ("Reliable mobile communications have a high level of importance for people who live in rural areas. The highest quality wireline service is no substitute for mobile services with broad geographic coverage, simply because the wireline service physically may not be there when it is needed, in a rural area.").

Portable generators can be moved to individual cell sites in the event of a catastrophic electrical failure. In the event of power or other types of failure, the cell sites are equipped with alarms that will alert the Company's technicians. Additionally, as noted earlier, the sites will be monitored remotely at the Company's Network Operations Center, should there be a total communications failure on any portion of the SI Wireless network.

C. Benefits of Competition.

One of the principal goals of the 1996 Act is, again, to "promote competition and reduce regulation in order to secure lower prices and high-quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies."⁶³ Designation of a competitive ETC in rural areas increases facilities and spurs development of advanced communications as carriers vie for a consumer's business.⁶⁴ Further, as the Commission has stated, the "goal of the Mobility Fund Phase I is to extend the availability of mobile voice service on networks that provide 3G or better performance and to accelerate the deployment of 4G wireless networks in areas where it is cost effective to do so with one-time support."⁶⁵ SI Wireless' plans directly support this goal.

Designation of SI Wireless as an ETC will promote competition and facilitate the provision of high-quality communications services to those living and working within the Company's proposed service area.⁶⁶ Residents in many rural areas have long trailed

⁶³ See 1996 Act (preamble).

⁶⁴ See, e.g., *Alltel Michigan Order* at 11; *N.E. Colorado Cellular, Inc. d/b/a Viaero Wireless, Application No. C-3324* (Neb. PSC, Oct. 18, 2005) at 11-12.

⁶⁵ See *Connect America Fund Order* at ¶ 322.

⁶⁶ See *Carolina West Order*, 21 FCC Rcd at 9156 (para. 17) ("We find Carolina West's universal service offering will provide a variety of benefits to customers including consumer choice and advantageous

urban areas in receiving competitive local exchange service and advanced telecommunications services, and in some rural areas no meaningful choice of local exchange carrier exists. It is also evident that the deployment of high-quality wireless telecommunications infrastructure is essential to economic development in rural areas.

SI Wireless will have every incentive to meet its commitments made in this proceeding, including the use of federal USF support to improve its network and reliability. If designated an ETC by the Commission in the proposed ETC service area and successful in obtaining USF support, SI Wireless will be able to better compete for customers, service quality and customer service will improve, and 3G services (and, ultimately, 4G services) will be deployed more quickly to more Tennessee residents. Wider local-calling areas and lower prices overall may also be introduced by Tennessee to retain and attract customers.⁶⁷

Moreover, designation of SI Wireless as an ETC in the areas of Tennessee requested would enable the Company to offer more appealing and affordable service

service offerings. For instance, universal service support will enable Carolina West to construct facilities to improve quality of service and extend telephone service to people who have no choice of telephone provider.”).

⁶⁷ See *Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993, Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Service*, WT Docket No. 06-17, Eleventh Report, 21 FCC Rcd 10947, 10984-85 (para. 92) (2006) (describing how consumers have benefited from proliferation of service offerings including free mobile-to-mobile, nationwide toll-free and/or roaming-free calling, family plans, and unlimited calling to a list of designated numbers.); *Applications of AT&T Wireless Services, Inc. and Cingular Wireless Corp.*, WT Docket Nos. 04-70, 04-254, 04-323, Memorandum Opinion and Order, 19 FCC Rcd 21522, 21554 (para. 63) (2004) (“By fostering continuing experimentation with a variety of different pricing options, service packages, and policies on handset subsidies, competition to attract and retain customers has resulted in complicated and ever-changing pricing and feature structures. Today all of the nationwide operators offer some version of a national rate pricing plan in which customers can purchase variously sized buckets of minutes to use on a nationwide or nearly nationwide network without incurring roaming or long-distance charges. Other significant trends in mobile telephony pricing have been the offering of free night and weekend minutes, and the expansion of free calling among a particular company’s customers, known as ‘in-network’ or ‘mobile-to-mobile’ calling. Moreover, although most U.S. mobile telephony subscribers pay their mobile phone bills after they have incurred charges (known as postpaid service), all the nationwide operators offer some version of a prepaid service either directly to their retail customers or through third-party resellers.”) (footnotes omitted).

offerings to low-income customers to ensure that they are able to afford wireless services on a consistent and uninterrupted basis. Without question, wireless services have become essential for lower-income citizens, providing them with value for their money, access to emergency services on wireless devices, and a reliable means of contact for prospective employers, social service agencies or dependents. Providing SI Wireless with the authority necessary to offer discounted Lifeline services to those most in danger of losing wireless service altogether undoubtedly promotes the public interest.

D. SI Wireless' Designation as an ETC Will Not Result in "Cream-Skimming."

As part of its public interest analysis, the Commission must determine whether SI Wireless' designation will enable it to "cream-skim," that is, target low-cost portions of a rural incumbent LEC's service area in which uneconomically high levels of support are available.

There is no possibility for cream-skimming in this application. SI Wireless is not targeting particular areas based on the possibility of receiving uneconomic levels of support. On the contrary, SI Wireless is only seeking ETC designation in this application in areas that cover the entirety of the incumbent LEC service area.

V. HIGH-COST CERTIFICATION

Under Section 54.314 of the FCC's Rules,⁶⁸ carriers wishing to obtain high-cost support must either be certified by the appropriate state commission or, where the state commission does not exercise jurisdiction, must self-certify with the FCC and USAC their compliance with Section 254(e) of the Act.⁶⁹

⁶⁸ 47 C.F.R. § 54.314.

⁶⁹ 47 U.S.C. § 254(e).

SI Wireless commits to use available federal USF support for its intended purposes—the provision, maintenance, and upgrading of facilities and services for which support is intended.⁷⁰ Therefore, SI Wireless respectfully requests that the Commission issue a finding that the Company has met the high-cost certification requirement and that SI Wireless is therefore entitled to receive federal USF high-cost support.

VI. ANTI-DRUG ABUSE CERTIFICATION

No party to this Petition is subject to denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1998, 21 U.S.C. § 862.

VII. CONCLUSION

For the reasons discussed in this Petition, SI Wireless respectfully requests the Commission to designate it as an ETC for the requested designated rural and non-rural areas in Tennessee, and for the purpose of participating in the upcoming Mobility Fund auction.

Respectfully submitted,



Todd B. Lantor*

Marc A. Paul*

LUKAS, NACE, GUTIERREZ & SACHS, LLP
8300 Greensboro Drive
Suite 1200
McLean, Virginia 22102
(703) 584-8678

* Not Admitted in Virginia

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⁷⁰ See Exhibit F.

REDACTED - FOR PUBLIC INSPECTION

Exhibit A

Tennessee Regulatory Authority Letter

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

April 11, 2003

IN RE:

**APPLICATION OF ADVANTAGE CELLULAR
SYSTEMS, INC. TO BE DESIGNATED AS AN
ELIGIBLE TELECOMMUNICATIONS CARRIER**

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**DOCKET NO.
02-01245**

ORDER

This matter came before Chairman Sara Kyle, Director Deborah Taylor Tate and Director Pat Miller of the Tennessee Regulatory Authority (the "Authority"), the voting panel assigned to this docket, at the regularly scheduled Authority Conference held on January 27, 2003, for consideration of the *Application of Advantage Cellular Systems, Inc. To Be Designated As An Eligible Telecommunications Carrier* ("Application") filed on November 21, 2002.

Background

Advantage Cellular Systems, Inc. ("Advantage") is a commercial mobile radio service provider ("CMRS") seeking designation as an Eligible Telecommunications Carrier ("ETC") by the Authority pursuant to 47 U.S.C. §§ 214 and 254. In its *Application*, Advantage asserts that it seeks ETC status for the entire study area of Dekalb Telephone Cooperative, Inc., a rural cooperative telephone company. Advantage maintains that it meets all the necessary requirements for ETC status and therefore is eligible to receive universal service support throughout its service area.

The January 27, 2003 Authority Conference

During the regularly scheduled Authority Conference on January 27, 2003, the panel of Directors assigned to this docket deliberated Advantage's *Application*. Of foremost consideration was the issue of the Authority's jurisdiction. The panel unanimously found that the Authority lacked

jurisdiction over Advantage for ETC designation purposes.¹

This conclusion was implicitly premised on Tenn. Code Ann. § 65-4-104, which provides that:

The Authority has general supervisory and regulatory power, jurisdiction and control over all public utilities and also over their property, property rights, facilities, and franchises, so far as may be necessary for the purpose of carrying out the provisions of this chapter.

For purposes of Tenn. Code Ann. § 65-4-104, the definition of public utilities specifically excludes, with certain exceptions not relevant to this case, "any individual, partnership, copartnership, association, corporation or joint stock company offering domestic public cellular radio telephone service authorized by the Federal communications commission."

The Authority's lack of jurisdiction over CMRS providers implicates 47 U.S.C. § 214(e), which addresses the provision of universal service. Where common carriers seeking universal service support are not subject to a state regulatory commission's jurisdiction, 47 U.S.C. § 214(e)(6) authorizes the Federal Communications Commission ("FCC") to perform the ETC designation.²

¹ This finding is not inconsistent with the Authority's decision in *In re Universal Service Grants Contested Case*, Decision 97-00834, *Interim Order on Phase 1 of Universal Service*, pp. 33-37 (May 29, 1998), in which the Authority required interstate telecommunications carriers to contribute to the Interstate Universal Service Fund including telecommunications carriers not subject to authority of the TRS. The decision in Decision No. 97-00834 was based primarily on 47 U.S.C. § 254(f) which authorizes states to adopt regulations not inconsistent with the Federal Communications Commission's rules on Universal Service and specifically requires "every telecommunications carrier that provides interstate telecommunications services to contribute to the preservation and advancement of universal service in that state. The *Interim Order* was issued prior to the effective date of 47 U.S.C. § 214(e)(6).
² 47 U.S.C. § 214(e)(6) states:

(e) Common carriers not subject to state commission jurisdiction

In the case of a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a State commission, the Commission shall upon request designate such a common carrier that meets the requirements of paragraph (1) as an eligible telecommunications carrier for a service area designated by the Commission consistent with applicable Federal and State law. Upon request and consistent with the public interest, convenience and necessity, the Commission may, with respect to an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated under this paragraph, so long as each additional requesting carrier meets the requirements of paragraph (1). Before designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the Commission shall find that the designation is in the public interest.

As a matter of "state-federal comity," the FCC requires that carriers seeking ETC designation "first consult with the state commission to give the state commission an opportunity to interpret state law."³ Most carriers that are not subject to a state regulatory commission's jurisdiction seeking ETC designation must provide the FCC "with an affirmative statement from a court of competent jurisdiction or the state commission that it lacks jurisdiction to perform the designation."⁴

The panel noted that the FCC is the appropriate forum for Advantage to pursue ETC status pursuant to 47 U.S.C. § 214(e)(6). This Order shall serve as the above mentioned affirmative statement required by the FCC.

IT IS THEREFORE ORDERED THAT:

The Application of Advantage Cellular Systems, Inc. To Be Designated As An Eligible Telecommunications Carrier is dismissed for lack of subject matter jurisdiction.


Sara Kyle, Chairman


Deborah Taylor Tate, Director


Pat Miller, Director

³ *In the Matter of Federal-State Joint Bd. on Universal Service*, CC Docket No. 96-45, Twelfth Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking, 15 F.C.R. 12208, 12284, ¶ 113 (June 30, 2000).

⁴ *See id.* (The "affirmative statement of the state commission may consist of any duly authorized letter, comment, or state commission order indicating that it lacks jurisdiction to perform designations over a particular carrier.")